

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF JAMES AND ) APPEAL NO. 07-A-2217  
DIANE FUHRMAN from the decision of the Board of ) FINAL DECISION  
Equalization of Valley County for tax year 2007. ) AND ORDER  
)

**RESIDENTIAL PROPERTY APPEAL**

THIS MATTER came for hearing on February 8, 2008, in Cascade, Idaho, before Hearing Officer Travis Vanlith. Board Members Lyle R. Cobbs, David Kinghorn and Linda S. Pike participated in this decision. Appellant James Fuhrman appeared. Assessor Karen Campbell, Chief Deputy Assessor Deedee Gossi and Appraiser June Fullmer appeared for Respondent Valley County. This appeal is taken from a decision of the Ada County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of property described as Parcel No. RP001340010010 A.

**The issue on appeal is the market value of residential property.**

**The decision of the Valley County Board of Equalization is reversed.**

**FINDINGS OF FACT**

The assessed land value is \$145,900, and the improvements' valuation is \$89,900, other improvements valuation is \$6,590, totaling \$242,390. Appellant requests the total assessed value be reduced to \$160,000.

The subject property is located in Round Valley in Valley County. It consists of a 5 acre lot with a cabin, garage and barn.

According to Appellant, the cabin was actually two old cabins located on the property that were pushed together to make the present standing cabin. Appellant indicated the improvements, are substandard, while the Respondent maintained a rating of fair - negative.

Appellant claimed subject is located in an old lake bed, in a canyon at the base of a series

of mountains. The water table appears to be very shallow and as a result, every spring, the valley fills with runoff.

Appellant testified that seven to ten feet under the ground, there is a clay layer which stops water from filtering further into the ground. Every spring, the water table rises from two inches below ground to several inches above ground. Appellant's property is very flat and becomes essentially a soupy mess each spring, upon which nothing can be built. Because of the high water table and spring run off issues, septic permits are unavailable. There is a septic system on subject, which was installed prior to the time when a permit was required and its use is therefore grandfathered. Appellant has attempted to acquire a septic permit for other adjacent properties, owned for five years, but has been unsuccessful. Subject property appears to be the only property in the subdivision or valley that has a septic system.

Appellant testified to have owned subject for seven to nine years. At the time of purchase the surrounding property had been subdivided into 16 lots and offered for sale. According to Appellant, only one other lot has been improved. The owners of the other improved lot built a yurt on the property. No other lots have a septic system.

Appellant attempted to procure comparable property sales to substantiate the proposed assessed value, but there have been no sales within subject area. Sales of properties even a mile and a half away were not comparable because of the unique characteristics of subject property.

On July 26, 2007, Appellant offered the property for sale and received one serious offer for \$139,000 with several conditions. A second offer for \$150,000 was also received, with the condition that the buyer be given a year to sell another property.

Respondent agreed the Round Valley area where the subject property is located has a

high water table. Respondent provided three improved sales and four bare land sales. A map was included in Respondent's Exhibit showing where the sale properties were located in comparison to subject.

The comparable property improvements were built within the same time period as subject, early 1970, and were considered fair grade and fair and average condition. None of the sales had septic restrictions. The three sales took place in 2005, 2006 and 2007. The prices ranged from \$135,000 to \$159,000.

The four vacant land sales took place in 2006 and ranged in size from .98 to 2.024 acres and in price from \$35,000 to \$99,000.

Respondent testified assessments are based on mass appraisal and it cannot provide individual appraisals. Respondent acknowledged there was a downward adjustment applied to subject assessment to address some of the subject land negative factors.

Appellant objected to the sale properties offered by the Respondent. The sale properties were located in Herrick Reservoir, about a mile and a half from subject. Appellant was familiar with the characteristics of the area, and maintained the sale properties are higher in elevation than subject, by at least 70 feet. The sales were located on hills, rather than flat ground like subject. The sale properties were located in an area improved with underground power and nice newer improvements. Appellant noted many of the lots sell for more than the entire subject property is worth. The area has different drainage and different access.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in

support of their respective positions, hereby enters the following.

Idaho Code § 63-201(10) defines market value as “the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.”

In the present case, Appellant makes a very persuasive argument regarding the assessed value of the subject property. Of particular interest was the fact that the spring run off appeared to have a significant impact in the ability to sell surrounding properties, with only one sale in the past 7-9 years. Several lots within the subdivision of this low lying area remain unimproved due to the inability to procure septic permits. Appellant had one serious offer to purchase subject property for \$139,000 and a second offer of \$150,000. Both offers were well below the assessed value.

In determining the value of property for taxation purposes “[t]he assessor may and should consider the earning power, and all other factors, known or available to his knowledge, which affect the value of the property assessed, to the end that the property of each taxpayer will bear its just proportion of the burden of taxation.” Anderson's Red & White Store v. Kootenai County, 70 Idaho 260, 263-264, 215 P.2d 815, 817 (1950).

Respondent was unable to provide any sales data for lots within the immediate area. The sales provided were not specifically compared to subject, and there were no adjustments for or consideration of any differences.

The sale prices presented by Respondent appear to be well below the assessed value of subject and therefore, do not support the assessed value.

.“The value of property for purposes of taxation as determined by the assessor is

presumed to be correct; and the burden of proof is upon the taxpayer to show by [a preponderance of the] evidence that he is entitled to the relief claimed.” Board of County Comm’rs of Ada County v. Sears, Roebuck & Co., 74 Idaho 39, 46-47, 256 P.2d 526, 530 (1953).

In this case the Board finds Appellant has provided a preponderance of the evidence and supported the reduction claim.

Therefore, the decision of the Valley County Board of Equalization is reversed.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Valley County Board of Equalization concerning the subject parcel be, and the same hereby is, reversed lowering the assessed value as follows:

Category 15	\$93,000
Category 32	7,000
Category 37	60,000
Total	\$160,000

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED APRIL 30, 2008